

Robert Marchant
Senate Chief Clerk
B20 Southeast, State Capitol
P.O. Box 7882
Madison, Wisconsin 53707-7882

Patrick Fuller
Assembly Chief Clerk
Room 401
17 West Main Street
Madison, Wisconsin 53703

Dear Chief Clerks:

**TRANSMITTAL IN FINAL DRAFT FORM OF ADMINISTRATIVE
RULES AND REPORT**

CLEARINGHOUSE RULE NO.: 09-072

RULE NO.: Comm 22.31 (2) (b)

RELATING TO: Approved Software to Show Compliance with Uniform Dwelling Code Thermal
Envelope Requirements

Pursuant to section 227.19, Stats., agencies are required to submit, in triplicate, copies of the proposed administrative rules in final draft form together with a rule report and an analysis. The recommendations received from the Legislative Council are also to be submitted.

At this time, this material, together with cover letters to the President of the Senate and the Speaker of the Assembly, is being transmitted for referral to the standing committees for legislative review.

Respectfully submitted,

Richard J. Leinenkugel
Secretary

Senator Fred Risser
President of the Senate
Room 220 South, State Capitol
Madison, Wisconsin 53707

Representative Michael Sheridan
Speaker of the Assembly
Room 211 West, State Capitol
Madison, Wisconsin 53708

Dear Senator Risser and Representative Sheridan:

NOTICE OF ADMINISTRATIVE RULES IN FINAL DRAFT FORM

CLEARINGHOUSE RULE NO.: 09-072

RULE NO.: Comm 22.31 (2) (b)

RELATING TO: Approved Software to Show Compliance with Uniform Dwelling Code Thermal Envelope Requirements

Section 227.19, Stats., requires agencies to submit proposed rules in final draft form to the presiding officer of each house for referral to the appropriate legislative standing committees.

The following information, as required by law, is being submitted to you.

1. Rules in final draft form (in triplicate).
2. Report consisting of:
 - a) Rule Report.
 - b) Public Hearing Attendance Record.
 - c) Public Hearing Comment and Agency Response Form.
 - d) Legislative Council Rules Clearinghouse Report.
 - e) Response to Legislative Council Rules Clearinghouse Report.
 - f) Fiscal Estimate.
 - g) Final Regulatory Flexibility Analysis.

If you have any questions regarding this matter, please do not hesitate to contact us.

Respectfully submitted,

Richard J. Leinenkugel
Secretary

Bruce Hoesly, Code Editor
1 East Main Street, Suite 200
Madison, Wisconsin 53703

Dear Mr. Hoesly:

NOTIFICATION OF RULE REFERRAL

This letter is to notify you that pursuant to section 227.19, Stats., the Department of Commerce has referred:

CLEARINGHOUSE RULE NO.: 09-072

RULE NO.: Comm 22.31 (2) (b)

RELATING TO: Approved Software to Show Compliance with Uniform Dwelling Code Thermal Envelope Requirements

to the presiding officers of the Senate and Assembly of the Legislature for referral to the appropriate standing committees for Legislative review.

Respectfully submitted,

Richard J. Leinenkugel
Secretary

RULE REPORT

Department of Commerce

Clearinghouse Rule No.: 09-072

Rule No.: Comm 22.31 (2) (b)

Relating to: Approved Software to Show compliance with Uniform Dwelling Code Thermal Envelope Requirements

Contact person for substantive questions:

Contact person for internal processing:

Name Larry Swaziek

Name Larry Swaziek

Title Program Manager

Title Program Manager

Telephone Number 267-7701

Telephone Number 267-7701

1. Basis and purpose of the proposed rule.

The basis of the proposed rule is ss. 101.02 (1), 101.63 (1), 101.64 (3), 101.72 and 101.74, Stats. The purpose of the proposed rule is to amend a provision that requires a specific version of REScheck software be used to calculate compliance with the dwelling thermal envelope requirements in chapter Comm 22. The amendment is necessary because Version 4.1.0, and some subsequent versions, that are specified in s. Comm 22.31 (2) (b) do not meet nor support the requirements of Wisconsin's energy code. State-specific energy conservation provisions were not incorporated into REScheck software until Version 4.2.2 .

2. How the proposed rule advances relevant statutory goals or purposes.

Sections 101.02 (1), 101.63 (1), 101.64 (3), 101.72 and 101.74, Stats., grants the Department of Commerce authority to promulgate rules that establish uniform, statewide standards for the construction of one- and 2-family dwellings. To fulfill this responsibility, the Department has promulgated this proposed rule to include the state-specific energy calculations and formulas in REScheck Version 4.2.2 to support chapter Comm 22 that became effective April 1, 2009.

3. Changes to the rule analysis or fiscal estimate that was prepared for public hearing.

No changes were made.

FINAL REGULATORY FLEXIBILITY ANALYSIS

Department of Commerce

CLEARINGHOUSE RULE NO.: 09-072

RULE NO.: Comm 22.31 (2) (b)

RELATING TO: Approved Software to Show compliance with Uniform Dwelling Code Thermal
Envelope Requirements

☒ Final regulatory flexibility analysis not required. (Statement of determination required.)

Pursuant to s. 227.19 (3m), Stats., the Department of Commerce has determined that the proposed rule to amend Comm 22.31 (2) (b) alleviates confusion and miscalculations because designers, builders, product manufacturers and code officials use REScheck software, and could use the version currently specified in Comm 22.31 (2) (b). It will not have a significant impact on a substantial number of small businesses.

1. Reason for including or failing to include the following methods for reducing impact of the rule on small businesses: Less stringent compliance or reporting requirements; less stringent schedules or deadlines for compliance or reporting requirements; simplification of compliance or reporting requirements; establishment of performance standards to replace design or operational standards; exemption from any or all requirements.
2. Issues raised by small businesses during hearings, changes in proposed rules as a result of comments by small businesses and reasons for rejecting any alternatives suggested by small businesses.

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3. Nature and estimated cost of preparation of any reports by small businesses.
4. Nature and estimated cost of other measures and investments required of small businesses.
5. Additional cost to agency of administering or enforcing a rule which includes any of the methods in 1. for reducing impact on small businesses.
6. Impact on public health, safety and welfare caused by including any of the methods in 1. for reducing impact on small businesses.

RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

Department of Commerce

CLEARINGHOUSE RULE NO.: 09-072

RULE NO.: Comm 22.31 (2) (b)

RELATING TO: Approved Software to Show compliance with Uniform Dwelling Code Thermal Envelope Requirements

Agency contact person for substantive questions.

Name: Larry Swaziek

Title: Program Manager

Telephone No. 267-7701

Legislative Council report recommendations accepted in whole.

☒ Yes

☐ No

1. Review of statutory authority [s. 227.15(2)(a)]

- a. ☐ Accepted
- b. ☐ Accepted in part
- c. ☐ Rejected
- d. ☐ Comments attached

2. Review of rules for form, style and placement in administrative code [s. 227.15(2)(c)]

- a. ☐ Accepted
- b. ☐ Accepted in part
- c. ☐ Rejected
- d. ☐ Comments attached

(Continued on reverse side)

3. Review rules for conflict with or duplication of existing rules [s. 227.15(2)(d)]
- a. ☐ Accepted
 - b. ☐ Accepted in part
 - c. ☐ Rejected
 - d. ☐ Comments attached
4. Review rules for adequate references to related statutes, rules and forms [s. 227.15(2)(e)]
- a. ☐ Accepted
 - b. ☐ Accepted in part
 - c. ☐ Rejected
 - d. ☐ Comments attached
5. Review language of rules for clarity, grammar, punctuation and plainness [s. 227.15(2)(f)]
- a. ☐ Accepted
 - b. ☐ Accepted in part
 - c. ☐ Rejected
 - d. ☐ Comments attached
6. Review rules for potential conflicts with, and comparability to, related federal regulations [s. 227.15(2)(g)]
- a. ☐ Accepted
 - b. ☐ Accepted in part
 - c. ☐ Rejected
 - d. ☐ Comments attached
7. Review rules for permit action deadline [s. 227.15(2)(h)]
- a. ☐ Accepted
 - b. ☐ Accepted in part
 - c. ☐ Rejected
 - d. ☐ Comments attached